

Case 2: Should affected workers be repatriated for care?

Key words: infectious disease; repatriation of affected staff; state obligations; employer obligations; dual standards; infection control.

You are deployed to a small Ebola treatment unit (ETU) during a major Ebola outbreak in a low-income country. The ETU was established to guarantee that affected healthcare workers would get care. It is believed that this measure will instil confidence in both the local and international communities, so that personnel continue to work or will come to the affected area to help care for the sick and contain the spread of the disease. The Unit is staffed by military healthcare workers. The Unit is able to offer a better standard of care than is available locally for the affected population, but this standard falls short of what would be available in the specialist treatment centre in London, which has four beds - all of which are currently empty. For instance, there are no dialysis or ventilation facilities, in the ETU.

Capacity in the Unit has recently been increased from 8 to 16 beds and you are currently treating 4 Ebola-confirmed patients. Of these three are local staff – one of whom was admitted with hiccups and a high viral load, and is thought unlikely to survive. The fourth Ebola-confirmed patient is a volunteer from a neighbouring country. Also admitted are three suspected Ebola cases, one of whom is a European NGO volunteer.

The European NGO worker is then confirmed as having Ebola as is one of the other local workers, who was working for the same organisation. One of your own members of staff gets a needle stick injury whilst attempting to take blood from an agitated patient and is also confirmed to have contracted the virus.

Issues Raised by the Case:

1. Eligibility criteria for treatment/evacuation
2. Operation of eligibility criteria
3. Treatment available for NGO workers/ military personnel
4. Local versus UK treatment & the risk of the spread of infection
5. State's obligation to citizens versus the military

Potential learning outcomes:

1. A greater understanding of the ethical justification for the eligibility criteria for treatment and its application

2. A discussion of the obligations the State (UK) bears to its citizens/members of the military/ NGO workers/ the world population- in humanitarian disasters
3. An increased ability to identify ethical issues and the respective perspectives and arguments therein
4. Beginning to understand and apply consequentialist ways of addressing issues and associated problems
5. Beginning to understand and apply duties and obligations in moral terms as a way of addressing issues and associated problems

1. What are the risks versus the benefits of flying the European NGO worker home to Europe to be treated?

Risks: Potential to spread the Ebola virus over a wide geographical area and to be an infective vector. The perceived risk may actually be a lot greater than the real risk (which with proper protective equipment and procedures should be minimal) however there is still a risk- even if minimal. The perceived risk may cause panic/alarm in Europe or that particular European country – and may further isolate Ebola victims and affected countries by psychological distancing-creating an ‘us and them mentality’.

Benefits: The standard of care in European facilities will almost definitely be higher than that of the ETU, giving the European NGO worker the greatest chance of survival and comfort. For example, both dialysis and ventilation facilities would be available. Other European NGO workers would be more likely to continue to work with Ebola or consider deploying to go and treat/ care for those with Ebola, which in turn should help stop the spread of the disease.

2. Do you think there is an ethical duty to provide optimal care for NGO workers? If so, who/m bears this duty and responsibility, and why?

The definition of an NGO worker is a ‘Non-Governmental Organisational Worker’ and includes people working for such bodies as Save the Children and Medicine Sans Frontier. Many NGO workers work on a voluntary basis, or if they receive remuneration it only covers living costs etc. This is in contrast to ordinary jobs and workers who are contractually bound to perform certain agreed tasks for pay- this contractual relationship is generally described as an employer-employee relationship. It is commonly understood that the employer is not only vicariously liable for the actions of its employees but also that it owes them a duty of care including to provide them with a safe working environment. An NGO has a much looser relationship with its workers and doesn’t usually have the same contractual obligations but it would still have legal obligations under the law of negligence. In that it is reasonably foreseeable that if the NGO

does not take care of its workers' environment then they may be harmed. In an Ebola environment, we could hold an NGO negligent if they have failed to provide the proper training and equipment to protect the NGO worker.

By analogy we could hold an NGO negligent by not making the best medical care available to a worker – but does that obligation to care for the NGO worker extend to making available the best medical care even if it means flying them back to Europe and risking the spread of infection? Arguably yes, as an NGO worker contracting Ebola whilst caring for patients with Ebola is a foreseeable possibility. Where, however, the risk of spreading the infection is a serious one there would also be a corresponding duty not to harm the people they may spread the infection to. Therefore, the duty to evacuate will be partly contingent on how infectious the disease is and the availability of measures to stop the spread of infection.

There is also the duty of the NGO worker's home country- the State bears a responsibility for the welfare of its citizens even if they are travelling abroad. How far does this extend? It generally does not cover flights home when a citizen falls ill and in this case the State also has a responsibility to all of its citizens to ensure their welfare and health. Arguably bringing an infected citizen back home is potentially subjecting the whole population to the risk of the spread of disease. The counter-argument to this is that NGO's and their workers may actually contain the spread of the epidemic.

3. What obligation does or should a State have to its citizens? Does it extend to trying to save an individual's life at all costs- even when that individual NGO worker has chosen to go to an area where they might be infected and there is a potential risk to the rest of the population?

An argument that people may employ is that the NGO worker has voluntarily exposed themselves to the risk of the Ebola – although for a good cause - and they should be prepared for the consequences and shouldn't expect that they be flown back home to the European country and potentially expose their nation to the threat of Ebola. The counter argument is that their actions whilst working in the affected country is likely to have helped to prevent the spread of Ebola. They deserve something in return for their efforts. Indeed, they may have volunteered assuming that they would be repatriated if infected.

4. Overall do you think the European NGO worker should be treated in the ET Unit or flown back to her own country for treatment? Why?

This question is here to ensure that all arguments have been examined and that people have a definite decision. Please see notes under question 1 & 2. It may be useful to have a show of hands to see what opinion is.

5. If the decision is taken to evacuate this patient, should the local patient who works for the same organisation also be evacuated to the same country? Why?

This question is looking at fairness and justice- generally we say it is ethical to treat everybody the same because that is fair. However, it is often easy to treat everyone the same but do nothing about pre-existing inequalities. If I choose to give a group of 16 children an equal piece of cake I have treated them justly, but what if I were to tell you that 4 of those children were starving- would you still have thought they had dealt with the division of the cake fairly?

If we favour one person over another we are discriminating. However discrimination is not always a bad or unethical thing to do- what is unethical is discriminating in an unfair way, choosing one person over another on an arbitrary or irrelevant criteria.

So what are the criteria for choosing to evacuate NGO workers?

The stated discriminating factor here is the nationality of the infected NGO worker- i.e. they are evacuated and cared for in their home country. Is this an arbitrary or irrelevant criterion? It is neither- but by applying the factor of nationality the policy mirrors the pre-existing inequalities in healthcare of the European country and Sierra Leone; Sierra Leone has poorer healthcare available to its population.

It is possible to argue that the NGO has an obligation to obtain the best possible health care available for each of their workers- so we could argue that the NGO should be responsible for flying the local healthcare worker to the European country- but there would be little point as this country would arguably not have a duty to accept that patient.

It might be interesting to see if students believe a correct construction of justice to NGO workers by the NGO would mean that the NGO should fund privately healthcare of the best possible standard for all of its healthcare workers?

6. Given that there is capacity in London to treat four Ebola cases at any one time, what are the arguments for and against evacuating the two local workers to the UK? What about the other volunteer who comes from a poor country where the facilities are not much better than those available in your ETU?

Arguments for:

- *Best available care for patients- people are suffering and potentially treatment in the UK could save their lives, otherwise they may die*
- *Justice- in terms of the local workers/other volunteer have caught Ebola by caring and treating patients with Ebola, exactly in the same way as the people being evacuated back to the UK*

- *The beds are available- no UK citizen is going to be deprived of Ebola treatment*
- *May be good 'hands on' experience with Ebola for staff in London*
- *Demonstrating international support for Sierra Leone and a political compassionate response to human suffering*

Arguments against:

- *State has to prioritise the health and welfare of its own citizens first, it cannot take the sick of the world- otherwise the health system and nation will disintegrate*
- *Although beds may not be currently used in the 4 bed unit- staff can be redeployed elsewhere in the hospital to treat other patients*
- *Staff have already had 'hands on' experience with Ebola*
- *Support for Sierra Leone and human suffering is already being demonstrated*
- *If the UK is at full capacity with patients of other nationalities, what will happen when a UK citizen becomes infected and needs the bed?*

7. Do countries have ethical obligations or responsibilities to aid other countries where there are humanitarian disasters? If so, to what extent? Is there a difference between a naturally contained disaster (such as an earthquake) and a disaster that might spread such as a deadly virus outbreak?

Some States have informal agreements where they lend each other help in times of crisis- however this tends to be where there is already a pre-existing relationship and some common shared mutual interest - effectively States insure each other against disaster to some extent. However, this is usually limited and comes secondary to the needs of the State's own citizens.

A Sovereign State may well decide that it is in the best interests of itself to send aid to contain the spread of a deadly virus because of the disruption in trade, travel, international politics as well as the threat of infection to its own citizens.

States often do respond to disasters. The students will have different views about the extent to which citizens should support overseas aid. On the one side they may wish to respond to suffering wherever it occurs and on the other may be concerned about the extent to which aid is provided at a cost to services at home.

8. What ethical obligations do or should a State have to its military personnel when they suffer harm whilst working? Does it matter how this harm came about – for instance, is there any difference between harms that occur in off-duty periods on deployment and those that occur on-duty?

Arguably military workers have a special relationship with the State, they are not just citizens of the State they are the arm of the State and as such the State has extra responsibilities to them, for example at a simple level like an employer. By extension there is a duty to provide training, protection and be concerned about anything that may harm a soldier.

In addition, soldiers understand themselves and are understood to have made a special promise or obligation to protect the State and its citizens; if necessary to lay down their life to protect their country. It is possible to argue that if someone has made this promise it is on the understanding that the State also owes a soldier special treatment if they get sick, injured or hurt whilst obeying orders and serving the State. Special in the sense of over and above the duty it owes to all of its citizens. Some people argue that the basis of this duty to provide special help is that soldiers act for other citizens, taking on themselves risks that the citizens thereby avoid having to take. Others argue that the special duty only extends to providing care that enables a soldier to return to duty. If the soldier is unable to return to duty (i.e. becomes a civilian) care should be allocated on the same basis as it is provided to other citizens.

Invite learners to consider whether they think the State's obligation to the soldier is different when the soldier is on or off duty. For instance, if we look at our justifications for special treatment of the military whilst injured, do these only apply when the injury or harm was suffered as a consequence of them being deployed?

9. Should the military nurse be evacuated to the UK? He was not a volunteer; as a member of the military he deployed under orders. What if the soldier had volunteered to go?

Much of the question may well have already been discussed but this gives the learners an opportunity to discuss any outstanding issues- and is covered in the above tutor notes.